

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 27 NOV 2001

WIPO PCT

Applicant's or agent's file reference ASH 116 P2-P	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US00/25907	International filing date (day/month/year) 21 September 2000 (21.09.2000)	Priority date (day/month/year) 24 September 1999 (24.09.1999)
International Patent Classification (IPC) or national classification and IPC IPC(7): C04B 7/02, 7/12, 7/13, 14/04 and US Cl.: 106/705, 713		
Applicant ISG RESOURCES, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 26 February 2001 (26.02.2001)	Date of completion of this report 30 October 2001 (30.10.2001)
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231 Facsimile No. (703)305-3230	Authorized officer Elizabeth Wood Telephone No. 703-308-0661 <div style="text-align: right;">DEBORAH THOMAS PARALEGAL SPECIALIST</div>

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/25907

I. Basis of the report

1. With regard to the elements of the international application:*

☐ the international application as originally filed.

☒ the description:

pages 1-41 as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____

☒ the claims:

pages NONE, as originally filed

pages NONE, as amended (together with any statement) under Article 19

pages NONE, filed with the demand

pages _____, filed with the letter of 09 August 2001 (09.08.2001)

☒ the drawings:

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____

☐ the sequence listing part of the description:

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in printed form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

☒ the description, pages NONE

☒ the claims, Nos. 21

☒ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US00/25907

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-20</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-20</u>	NO
Industrial Applicability (IA)	Claims <u>1-20</u>	YES
	Claims <u>1-20</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-20 lack novelty under PCT Article 33(2) as being anticipated by U.S. Patent No. 5,681,384 to Liskowitz et al.

The amended claims recite a composition consisting of cement, fly ash or pozzolan and hydrated lime. Liskowitz et al. disclose a composition containing cement, fly ash and a slurry of calcium oxide. Although the reference does not use the words "hydrated lime" it is considered that hydrated lime will be present in the aqueous slurry.

Claims 1-20 lack an inventive step under PCT Article 33(3) as being obvious over U.S. Patent No. 5,681,384 to Liskowitz et al.

The amended claims recite a composition consisting of cement, fly ash or pozzolan and hydrated lime. Liskowitz et al. disclose a composition containing cement, fly ash and a slurry of calcium oxide. Although the reference does not use the words "hydrated lime" it is considered that hydrated lime will be present in the aqueous slurry.

Although the reference does not disclose the identical amounts claimed herein, it is considered that there is substantial overlap and such would constitute a lack of an inventive step as the skilled artisan could easily select amounts in the overlapping areas of the ranges.

Claims 1-4 and 6-9 lack an inventive step under PCT Article 33(3) as being obvious over U.S. Patent No. 4,268,316 to Wills, Jr.

Wills, Jr. et al. recite a composition comprising cement, kiln dust, fly ash and optionally hydrated lime replacing some of the cement (see column 2)

Although the reference does not disclose the identical amounts claimed herein, it is considered that there is substantial overlap and such would constitute a lack of an inventive step as the skilled artisan could easily select amounts in the overlapping areas of the ranges. Note that the instant claims recite greater than about 25% fly ash, which the examiner considers to read on the 25% fly ash disclosed by the reference.

Claims 1-21 meet the criteria set out in PCT Article 33(4), because the instant composition has utility in the area of cements and mortars.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/25907

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

The previous objection under PCT Rule 66.2 (a)(v) is withdrawn in view of applicants' comments and the amendment to the claims. However, the following comments are considered necessary:

Although the claims now recite "consisting of", applicants argue that "when the percentage weights of the three named components are added, they should amount to 100" and "additional materials are not intended to be precluded". Accordingly, it is considered that applicants' have effectively defined "consisting of" as being open to any and all other substances so long as the ratios of the three claimed components are within weighted average. Accordingly, any reference containing additional substances in addition to the primary ingredients claimed by applicants would constitute prior art because the applicants have effectively defined "consisting of" as "comprising".